

9 FAM 41.102 Procedural Notes

(TL:VISA-462; 09-18-2002)

9 FAM 41.102 PN1 Form DS-156, Nonimmigrant Visa Application

(TL:VISA-237; 10-17-2001)

Form DS-156, *Nonimmigrant Visa Application*, is designed to enable the consular officer to determine whether the visa may be issued without the personal appearance of the applicant. Information concerning the issuance of a nonimmigrant visa should be entered on Form DS-156.

9 FAM 41.102 PN1.1 When Form DS-156, Nonimmigrant Visa Application Completed by Other Than Applicant

(TL:VISA-347; 01-15-2002)

The Form DS-156, *Nonimmigrant Visa Application*, for an alien under 16 years of age, or one who is physically incapable of completing an application, may be completed and executed by the alien's parent or guardian. If the alien has no parent or guardian, then the Form DS-156 may be completed by any person having legal custody of, or a legitimate interest in, the alien.

9 FAM 41.102 PN2 Waiving of Personal Appearance and Filing of Form DS-156, Nonimmigrant Visa Application

(TL:VISA-462; 09-18-2002)

When a consular officer waives the personal appearance requirement under INA 41.102(a)(2) or (3), he and/or she may also waive the filing of the visa application, *but only in cases of life-threatening emergency*. If the filing of the visa application is waived, the consular officer shall prepare Form DS-156, *Nonimmigrant Visa Application* on behalf of the applicant, using the data available in the passport or other documents that have been submitted.

9 FAM 41.102 PN2.1 Cases in Which Personal Appearance is Necessary to Determine Eligibility

(TL:VISA-462; 09-18-2002)

If the consular officer is in doubt concerning the nonimmigrant status or the eligibility under INA 212 of an alien whose application was submitted by mail or messenger *or other means*, the officer shall request the alien to appear in person. *Posts are also reminded of interview requirements for certain categories of aliens as stated in 9 FAM 41.102 N4.* If the alien is expected to appear within a few days, the consular officer may retain the alien's passport and accompanying supporting documents. If the applicant fails to keep his and/or her appointment, the passport and documents should be returned to the applicant immediately. The Form DS-156, *Nonimmigrant Visa Application* is to be annotated to reflect the alien's failure to keep the appointment, as well as the date the passport and documents are returned.

9 FAM 41.102 PN3 Cases of Students

(TL:VISA-462; 09-18-2002)

In cases of students, consular officers *should* make an assessment of English language skills when relevant

9 FAM 41.102 PN4 Applying Criteria for Waivers

(TL:VISA-462; 09-18-2002)

When posts apply criteria for waivers of personal appearance, they should be mindful of the prohibition against accepting nonimmigrant visa applications from applicants who are neither residents of, nor physically present in, their consular district. All waivers of personal appearance authorized under the discretionary authority granted by regulation must be documented in the NIV system comments to reflect the reason why the adjudicating consular officer determined that a waiver of personal appearance was in the national interest.

9 FAM 41.102 PN5 Establishing Personal Appearance Waiver (PAW) Procedures

(TL:VISA-462; 09-18-2002)

The three most widely used PAW procedures are:

- (1) Drop Box;
- (2) Mail-in; and
- (3) Third party screening.

9 FAM 41.102 PN5.1 Drop Box

(TL:VISA-462; 09-18-2021)

The drop box may be an actual box, situated in a secure location on consular premises, or it may be a consular employee accepting applications at a window. The method chosen by a post will depend on certain factors:

- (1) *Security and fraud vulnerabilities;*
- (2) Volume;
- (3) The degree of compliance by the public in observing drop box criteria and instructions; and
- (4) The physical layout of the consular section.

9 FAM 41.102 PN5.1-1 Unmanned Drop Box

(TL:VISA-462; 09-18-2002)

The most efficient method is the unmanned drop box, unless public compliance with drop box criteria and application instructions are poor. In a consular district where the education level is low, it is helpful for a consular employee to examine each application prior to accepting the documents. The employee may also accept the Machine Readable Visa (MRV) fee, *either by examining MRV receipts or by accepting the MRV fee*, and answer questions. At an unattended drop box, evidence of fee payment would have to be attached to the application.

9 FAM 41.102 PN5.1-2 Criteria for Using Unmanned Drop Box

(TL:VISA-347; 01-15-2002)

The criteria for using the unmanned drop box should be clearly stated in a sign adjacent to the drop box, and in a handout readily available to the public. The information contained in the handout and on the sign should be easy to understand, and should include the requirements that the applicant submit:

- (1) A valid passport;
- (2) A completed and signed Form DS-156, *Nonimmigrant Visa Application*; and
- (3) A recent photo of the applicant, which should be attached to the DS-156.

9 FAM 41.102 PN5.1-3 Evaluating Drop Box Criteria

(TL:VISA-462; 09-18-2002)

If post is requiring interviews or requesting additional information from more than 10 percent of drop box applicants, they should reevaluate the drop box criteria since such extra handling negates any savings in resources achieved by reducing the number of interviews.

9 FAM 41.102 PN5.1-4 Cases Failing to Qualify for Drop Box Processing

(TL:VISA-462; 09-18-2002)

Posts should prepare a simple form letter for those cases that do not qualify for drop box processing. The letter should indicate the reason the application is being returned, such as "passport expired", or "form not signed." *Such cases should be refused under INA 221(g).* If the documents are *to be* returned by mail, *applicants should be instructed to* include a self-addressed, stamped envelope.

9 FAM 41.102 PN5.2 Mail-In Applications

(TL:VISA-237; 10-17-2001)

Posts that allow mail-in applications generally establish procedures not unlike those employed with an unmanned drop box system. The main difference is the manner in which the MRV fee is paid. At posts where MRV fees can be paid to third parties, (such as local post offices or banks) the mail-in option will be an attractive alternative to the drop box system. If fees must be paid to the consular cashier, however, posts will generally want to encourage applicants to use the drop box, although posts can mail back visaed passports and accompanying documents. The applicant should include a franked, self-addressed envelope with the application.

9 FAM 41.102 PN5.3 When Mail-In System Should be Implemented

(TL:VISA-462; 09-18-2002)

Implementation of a mail-in application system should only be considered in areas where the local postal service is reliable. Posts will also need to make application forms and instructions easily available to the public by mailing forms on request, and/or disseminating forms to third-party entities throughout the consular district.

9 FAM 41.102 PN6 Third Party Submission

(TL:VISA-462; 09-18-2002)

a. There are several procedures commonly used by consular sections that would qualify as "third-party *submission*." The most common systems are:

- (1) Embassy referrals (the subject of other cables, and described in the Consular Management Handbook);
- (2) Corporate referrals; and
- (3) *Courier and travel agency cases.*

b. In all three systems, the referring party is responsible for preparing and presenting the application and any supporting evidence. *No visa adjudication authority may be delegated to any third party entity.*

c. All three systems work best when it is understood that improperly submitted cases can terminate PAW privileges. Therefore, posts should establish a validation system whereby referred applicants can be tracked to ensure that they return within the timeframe indicated in the application. This tracking can be accomplished by having the referring party submit evidence of return (such as a stamped passport) or contacting the applicant directly.

9 FAM 41.102 PN6.1 Corporate Referrals

(TL:VISA-462; 09-18-2002)

In the case of corporate referrals, the applicant must be an employee *of the company*. The selection of companies given visa referral privileges and the criteria for referred applicants is varied, and depends upon post's assessment of local conditions, as well as the integrity and capability of the company. Referral privileges *must be restricted* to a small number of designated company officers. Factors to consider are a company's size, the volume of travel it sponsors to the United States, and of course, its reputation.

9 FAM 41.102 PN6.2 Courier Services and Travel Agencies

(TL:VISA-462; 09-18-2002)

a. *When courier services and travel agencies are allowed to submit applications and any supporting evidence*, there can be no substantive relationship between the agency and the applicant whose case is being submitted. The applicant simply purchases tickets and/or makes other travel arrangements through the agency *or uses the agency or courier service as a convenient means of submitting the application*.

b. *Consular officers will inspect the application and supporting evidence submitted by the courier service and travel agencies with the same degree of scrutiny given walk-in applications, and the criteria used to determine whether an applicant should be invited for a visa interview are the same as for the drop-box, mail-in, or corporate referral cases*. Posts should work with reputable agencies. Local conditions and fraud concerns *might* lead posts to reject any use of travel agencies for pre-screening of visa applicants.

9 FAM 41.102 PN6.3 Clientele of Travel Agents Not to be Given Priority Treatment Over Other Applicants

(TL:VISA-462; 09-18-2002)

It is essential that applicants do not gain the impression that they can obtain a visa only through the intercession of a paid travel agent. *For that reason, posts are enjoined from establishing PAW programs that depend exclusively on travel agencies.* Moreover, to avoid giving any impression that a particular agent's clientele received preferential treatment, applicants presenting completed forms should not be given priority in processing over the other applicants who do not have such forms in their possession when they apply at the Visa Section.

9 FAM 41.102 PN7 General Principles

(TL:VISA-237; 10-17-2001)

Consular officers must be vigilant to ensure that Personal Appearance Waiver procedures are not used fraudulently. All applications must be reviewed and adjudicated by a consular officer or employee designated as a Consular Officer for Visa Purposes (COVP). When there is any doubt about an applicant's qualifications for a nonimmigrant visa, the consular officer must request any needed additional information and/or a personal interview before authorizing issuance of a visa. Consular officers **cannot** abdicate their statutory responsibility to any third party.

9 FAM 41.102 PN8 Documentation Requirements

(TL:VISA-462; 09-18-2002)

Many visa applications will require supporting documentation. The quantity of such documents should be kept to a minimum. If fraud concerns mandate that supporting documents be originals, it will be necessary to ensure that originals needed by the applicant are returned when the passport is picked up or mailed out. If the passport and documents are mailed out, the alien should enclose a self-addressed, postage-paid envelope with his and/or her application.

9 FAM 41.102 PN9 Methods for Returning Passports to Bearers

(TL:VISA-237; 10-17-2001)

If passports are to be handed out, posts should explore various options to ensure proper handling, such as color-coding passports submitted on any given day and organizing passports in alphabetical order, or by numbered receipt. Numbered receipts could be handed out or self-dispensed at the time an application is delivered to the drop box, or posts may elect to annotate the MRV fee receipts numerically. The receipt should be an identically numbered two-part form: one for the applicant to retain for pick-up and one to be attached to the passport.